

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In Re:)	
)	Chapter 11
BII LIQUIDATION, INC. (f/k/a))	
BURLINGTON INDUSTRIES, INC.,)	No. 01-11282 (RJN)
)	(Jointly Administered)
Debtor.)	
)	

SETTLEMENT AGREEMENT

WHEREAS, on or about November 15, 2001, Burlington Industries, Inc.(n/k/a) BII Liquidation, Inc. (the "Debtor") herein filed a petition for reorganization under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101, et seq., as amended (the "Bankruptcy Code");

WHEREAS, on October 31, 2003, the United States bankruptcy Court for the District of Delaware (the "Bankruptcy Court") entered an order confirming the Debtor's plan of reorganization (the "Plan of Reorganization")¹;

WHEREAS, the Plan of Reorganization became effective in accordance with its terms, and the Effective Date occurred, on November 10, 2003;

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Debtor's Plan of Reorganization.

WHEREAS, on or about July 18, 2002, the United States, on behalf of the Environmental Protection Agency (the "EPA"), filed a Proof of Claim against the Debtor;

WHEREAS, the proof of claim asserts a claim, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, et seq., for at least \$10,193,132 for unreimbursed environmental response costs incurred by the United States at the Carolina Steel Drum Site, York County, South Carolina; the J Street Site, Harnett County, North Carolina; and the FCX-Statesville Site, Iredell County, North Carolina (the Sites), and \$10,424,245 in potential future response costs incurred by the United States at the Sites (the "EPA Claim");

WHEREAS, the United states asserts general unsecured claim priority except to the extent that the United States is entitled to administrative priority for injunctive obligations of the Debtor or post-petition liabilities of the Debtor, with respect to the property of the estate;

WHEREAS, the Debtor disputes the nature, validity, priority and extent of the claims asserted by the EPA in the EPA Claim;

WHEREAS, Avidity Partners, LLC was appointed the Distribution Trust Representative under the Debtor's Plan of Reorganization. Pursuant to Section IV.B.6 of the Plan of Reorganization, the Distribution Trust Representative is the

exclusive trustee of the assets of the BII Distribution Trust and the representative of the BII Distribution Trust, the Debtor and the Debtor's Chapter 11 Estate. .

WHEREAS, pursuant to the BII Distribution Trust Agreement, certain actions by the Distribution Trust Representative, including the settlement of any claims or disputes where the amount in dispute exceeds \$500,000.00, require the prior written consent of the Trust Advisory Committee (as such term is defined in the BII Distribution Trust Agreement);

WHEREAS, the actions contemplated by this Settlement Agreement do require the prior written consent of the Trust Advisory Committee;

WHEREAS, the Trust Advisory Committee has given its consent to the terms of this Settlement Agreement after written notice of the terms of the Settlement Agreement by the Distribution Trust Representative; and

WHEREAS, the parties hereto, without admission of liability by any party, desire to settle, compromise and resolve the EPA Claims;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties hereto, subject to approval by the Bankruptcy Court, as follows:

1. With regard to the claims made by General Notice Letter from the EPA dated November 19, 2002 against Debtor for the Industrial Pollution Control Superfund Site ("IPC Superfund Site") located at or near 810 Poindexter Street, Jackson, Hinds County, Mississippi, the EPA Claim shall be allowed as a General Unsecured Claim in the amount of \$5,000.00, and paid as an Allowed General Unsecured Claim in Class 4 without discrimination in accordance with the terms of the Debtor's Plan of Reorganization. The United States will be deemed to have withdrawn with prejudice the EPA Claim as it relates to the IPC Superfund Site for any amount in excess of \$5,000.00. Subject to paragraph 8, below, the United States waives and releases any further claim against Debtor for the recovery of environmental response costs or any other costs, expenses, damages, and claims of any description under CERCLA arising from the IPC Superfund Site.

2. With regard to the Carolina Steel Drum Site, the EPA Claim shall be deemed to have been withdrawn with prejudice.

3. With regard to the J Street Site, the EPA Claim shall be allowed as a General Unsecured Claim in the amount of \$160,038.50, and paid as an Allowed General Unsecured Claim in

Class 4 without discrimination in accordance with the terms of the Debtor's Plan of Reorganization. The United States will be deemed to have withdrawn with prejudice the EPA Claim as it relates to the J Street Site for any amount in excess of \$160,038.50. Subject to paragraph 8, below, the United States waives and releases any further claim against Debtor for the recovery of environmental response costs or any other costs, expenses, damages, and claims of any description under CERCLA arising from the J Street Site. Additionally, Debtor shall have no further obligation to comply with the Unilateral Administrative Order for the J Street Site.

4. With regard to the FCX-Statesville Site, Operable Unit 1, the EPA Claim shall be allowed as a General Unsecured Claim in the amount of \$665,381.32, and paid as an Allowed General Unsecured Claim in Class 4 without discrimination in accordance with the terms of the Debtor's Plan of Reorganization. The United States will be deemed to have withdrawn with prejudice the EPA Claim as it relates to the FCX-Statesville Site, Operable Unit 1, for any amount in excess of \$665,381.32. Subject to paragraph 8, below, the United States waives and releases any further claim against Debtor for the recovery of environmental response costs under CERCLA arising from FXC-Statesville Site, Operable Unit 1. Additionally, El Paso Natural Gas Company ("El Paso") has agreed as part of its purchase of the FCX Burlington

property from the Debtor to be responsible for all response costs incurred by EPA at Operable Unit 3, subsequent to the transfer of title to El Paso and the United States waives any present or future claim against the Debtor for operable Unit 3.

Accordingly, subject to paragraph 8, below, Burlington shall have no further obligation to comply with or liability under the Consent Decree dated April 1, 1998.

5. Payment on the Allowed General Unsecured EPA Claims shall be made in accordance with the Debtor's Approved Plan of Reorganization and made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing DOJ Number 90-11-3-07057, in accordance with instructions provided by the United States to the Debtor after execution of this Settlement Agreement. Any EFTs received at the U.S. D.O.J. lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day.

The amounts to be paid by the Debtor pursuant to Paragraphs 1, 3, and 4 shall be deposited in the following accounts, IPC - A4N1 (\$5,000); J Street - 04G0(\$160,038.50); FCX-Statesville Site, Operable Unit 1, Account 048M(\$665,381.32), within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the respective Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

6. Only the amount of cash received by EPA (or net cash received by EPA on account of any non-cash distributions) from the Debtor under this Settlement Agreement for EPA's Allowed General Unsecured Claims, and not the total amount of the allowed claims, shall be credited by EPA to its account for the Site, which credit shall reduce the liability of non-settling potentially responsible parties to EPA for the Site by the amount of the credit.

7. In consideration of the payments or distributions that will be made by the Debtor under the terms of this Settlement Agreement, and except as provided in paragraph 8, the United States covenants not to bring a civil action or take administrative action against the Debtor pursuant to Sections 106 and 107 of CERCLA relating to the Sites. This covenant not to sue is conditioned upon the complete and satisfactory performance by the Debtor of its obligations under this Settlement Agreement. This covenant not to sue extends only to the Debtor and any successor to the Debtor or its Chapter 11 Estate, including the BII Distribution Trust and any successor company emerging under the Chapter 11 procedures as approved by the Bankruptcy Court, and does not extend to any other person.

8. The covenant not to sue set forth in the previous paragraph does not pertain to any matters other than those expressly specified in the previous paragraph. The United States

reserves, and this Settlement Agreement is without prejudice to, all rights against the Debtor with respect to; liability for damages for injury to, destruction of, or loss of natural resources; liability for response costs that have been or may be incurred by federal agencies which are trustees for natural resources; claims based on a failure by the Debtor to meet a requirement of this Settlement Agreement; liability for future actions by the Debtor or any successor to the Debtor or its Chapter 11 Estate, including the BII Distribution Trust and any successor company emerging under the Chapter 11 procedures as approved by the Bankruptcy Court, which may give rise to liability under 42 U.S.C. § 9606 and 9607(a)(1)-(4); and claims for any site other than the Sites included in this agreement.

9. With regard to claims for contribution against the Debtor for matters addressed in this Settlement Agreement, the Debtor is entitled to such protection from contribution actions or claims as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2).

10. The Debtor, and all parties identified in paragraph 7, above, covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Sites, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund, any claims for contribution against the United States,

its departments, agencies or instrumentalities, and any claims arising out of or response activities at the Sites. Nothing in this Settlement Agreement shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611 or 40 C.F.R. § 300.700(d).

11. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement.

12. This Settlement Agreement will be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019. This Settlement Agreement will also be submitted for public comment following notice of the Settlement Agreement in the Federal Register. The United States reserves the right to withdraw or withhold its consent if the public comments regarding the Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is inappropriate, or improper, or inadequate.

13. If this Settlement Agreement is not authorized and approved by the Bankruptcy Court, this Settlement Agreement shall be of no force and effect, whereupon nothing herein shall be deemed an admission of any fact or waiver of any right of either party with respect to the matters contained herein.

14. This Settlement Agreement may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the parties hereto and the approval of the Bankruptcy Court.

FOR THE UNITED STATES OF AMERICA

7.1.04
Date

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

6/15/04
Date

JON A. MUELLER
Senior Attorney
Environmental Enforcement Section
U.S. Department of Justice

THE UNDERSIGNED PARTY enters into this settlement agreement between Burlington Industries Inc. and the United States on behalf of the Environmental Protection Agency on proof of claim (no. 90-11-3-07057) in the Bankruptcy Court for the U.S. District Court of Delaware:

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

4/23/04
DATE

T. I. Palmer, Jr.
Regional Administrator
U.S. EPA, Region 4

5/14/04
Date

Kevin T. Beswick
Associate Regional Counsel
U.S. EPA, Region 4

THE UNDERSIGNED PARTY enters into this settlement agreement between Burlington Industries Inc. and the United States on behalf of the Environmental Protection Agency on proof of claim (no. 90-11-3-07057) in the Bankruptcy Court for the U.S. District Court of Delaware:

FOR DEBTOR: BURLINGTON INDUSTRIES, INC.
(n/k/a BII Liquidation, Inc.)

Date

4/5/04

By: _____

BII Distribution Trust
John J. Ray, III, Principal
Avidity Partners, LLC, solely in its
capacity as Distribution Trust
Representative

280 Shuman Blvd., Suite 170
Naperville, Illinois 60563